



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Police Officer Michelle Diaz : ORDER
Tax Registry No. 937816 : OF
Administrative Support Division : DISMISSAL
-----X

Police Officer Michelle Diaz, Tax Registry No. 937816, Shield No. 7183, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2011-5427, as set forth on form P.D. 468-121, dated October 27, 2011, and, having pleaded Guilty, after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Michelle Diaz from the Police Service of the City of New York.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly".

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE: On May 29, 2013 @ 0001hrs.

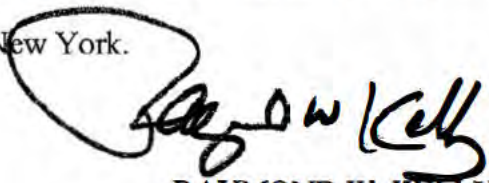


POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Police Officer Steven Irizarry : ORDER
Tax Registry No. 935045 : OF
Housing Police Service Area 5 : DISMISSAL
-----X

Police Officer Steven Irizarry, Tax Registry No. 935045, Shield No. 12262, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2011-5426 and 2011-6359, as set forth on form P.D. 468-121, dated October 27, 2011 and November 30, 2011, respectively, and, having pleaded Guilty, after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Steven Irizarry from the Police Service of the City of New York.


RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE: On May 29, 2013 @0001hrs.



POLICE DEPARTMENT

May 8, 2013

-----X
In the Matter of the Charges and Specifications : Case No. 2011-5427
- against - :
Police Officer Michelle Diaz :
Tax Registry No. 937816 :
Administrative Support Division :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Robert W. Vinal
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Rudolph Behrmann, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Paul Martin, Esq.
1825 Park Avenue, Suite 1102
New York, New York 10035

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038



POLICE DEPARTMENT

May 8, 2013

-----X
In the Matter of the Charges and Specifications : Case Nos. 2011-5426 &
- against - : 2011-6359
Police Officer Steven Irizarry :
Tax Registry No. 935045 :
Housing Police Service Area 5 :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Robert W. Vinal
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Rudolph Behrmann, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Angelo MacDonald, Esq.
Pappalardo & Pappalardo, LLP
700 White Plains Road, Suite 355
Scarsdale, New York 10583

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

The above-named members of the Department appeared before me on February 4 and February 28, 2013, charged with the following:

Disciplinary Case No. 2011-5427

1. Said Police Officer Michelle Diaz, assigned to D. C. Training - Outdoor Range, on or about September 23, 2009, in the confines of New York County, committed perjury during a courtroom [*sic*] proceeding, to wit: said Police Officer intentionally made material false statements while giving [*sic*] testimony regarding her participation during an arrest which took place on July 16, 2008, in Bronx County.

NYS PENAL LAW 210.15 PERJURY IN THE FIRST DEGREE

2. Said Police Officer Michelle Diaz, assigned to D.C. Training, on or about and between July 17, 2008 and September 23, 2009, in the confines of New York County, made materially false, fictitious [*sic*] or fraudulent statements to a member of the United States Attorney's Office, S.D.N.Y., concerning her participation during a July 16, 2008, Bronx County arrest.

18 USC 1001(a) (2) CRIMES AND CRIMINAL PROCEDURE,
STATEMENTS OR ENTRIES GENERALLY

Disciplinary Case No. 2011-5426

1. Said Police Officer Steven Irizarry, assigned to PSA - 5, on or about September 23, 2009, in the confines of New York County, committed perjury during a courtroom [*sic*] proceeding, to wit: said Police Officer intentionally made material false statements during an evidentiary hearing regarding his participation during an arrest which took place on July 16, 2008, in Bronx County.

NYS PENAL LAW 210.15 PERJURY IIN [*sic*] THE FIRST DEGREE

2. Said Police Officer Steven Irizarry, assigned to PSA - 5, on or about and between July 17, 2008 and September 23, 2009, in the confines of New York County, made materially false, fictitious [*sic*] or fraudulent statements to a member of the United States Attorney's Office, S.D.N.Y., concerning his participation during a July 16, 2008, Bronx County arrest.

18 USC 1001(a) (2) – CRIMES AND CRIMINAL PROCEDURE,
STATEMENTS OR ENTRIES GENERALLY

Disciplinary Case No. 2011-6359

1. Said Police Officer Steven Irizarry, while assigned to the 52 Precinct, on or about June 11, 2010, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer on one occasion requested assistance with the prevention of the processing and adjudication of a summons issued to an individual.

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT
GENERAL REGULATIONS

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office. Respondent Diaz was represented by Paul Martin, Esq., and Respondent Irizarry was represented by Angelo MacDonald, Esq.

Respondents, through their counsel, entered pleas of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2011-5427

Respondent Diaz, having pleaded Guilty, is found Guilty.

Disciplinary Case Nos. 2011-5426 & 2011-6359

Respondent Irizarry, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Both Respondents testified in mitigation of the penalty to be imposed.

Respondent Diaz

Respondent Diaz testified that on July 16, 2008, she and Respondent Irizarry, who were assigned to the 52 Precinct, were on-duty performing patrol duties. Respondent Irizarry was the operator of their marked Radio Motor Patrol car (RMP) and Respondent Diaz was the recorder. They received a radio transmission that suspicious males had been observed near a tractor trailer truck parked on Bailey Avenue in the Bronx. After Respondent Diaz informed the dispatcher that they would be responding to the call, Respondent Irizarry drove to the location. When they arrived at Bailey Avenue, they saw two trucks. Respondent Irizarry stopped their RMP in front of the first truck they had spotted. They exited their RMP and walked around to the rear of the truck. When they reached the rear of the truck, they saw that anti-crime officers dressed in plainclothes were there. They recognized these anti-crime officers as being from their command. They saw that these officers had a suspect in custody.

Respondent Irizarry made a radio transmission requesting that the patrol supervisor respond to the scene. Respondent Diaz explained that he did this because "there was a discrepancy" as to "who would be assigned the arrest." The patrol supervisor arrived at the scene and the anti-crime officers' supervisor also arrived at the scene. After the two supervisors engaged in a private discussion, Respondent Irizarry was told that he was being assigned the arrests of two suspects. The two suspects were then transported to the 52 Precinct.

Respondent Diaz was assisting Respondent Irizarry with arrest processing at the 52 Precinct when federal agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agents arrived at the 52 Precinct. When the ATF agents asked Respondent Diaz about the arrests, she told them that "we apprehended the individuals." When she was asked why she had

told the ATF agents that she and Respondent Irizarry had apprehended the suspects, Respondent Diaz answered, "Well, after being assigned the arrest, I equated that with me apprehending the individual. After telling the [ATF] agent that...the story just spiraled and snowballed out of control and I regret giving an inaccurate description of the events and apologize for any discrepancy I caused." She explained that in stating that the story had spiraled out of control, she meant that her story that she and Respondent Irizarry had apprehended the suspects was the result of the fact that the anti-crime officers "really didn't want to take part in the arrest because they didn't have the arrest."

Respondent Diaz further admitted that when she appeared at the office of the United States Attorney for the Southern District of New York for testimony preparation and was questioned by an Assistant United States Attorney (AUSA) about the arrests, she told the AUSA "the same story" that she had told the ATF agents, that she and Respondent Irizarry had apprehended the defendants.

Respondent Diaz admitted that when she was called to the witness stand to testify under oath at a suppression hearing held on September 23, 2009, in United States District Court for the Southern District of New York before Chief Judge Loretta A. Preska, she repeated the lies that she had told the AUSA and the ATF agents regarding the apprehension of the defendants.

When she was asked if she knew what impact had resulted from her false statements, Respondent Diaz initially answered, "Just, I don't know." When she was then asked if she knew that the two defendants had been released because of her lies, she answered, "Yes, I do."

Respondent Diaz asserted that she has never made any false sworn statements with regard to the approximately 50 other arrests she has made, that her work as a police officer with this

Department "has been my life the last eleven years," that she and Respondent Irizarry are remorseful regarding their misconduct, and that she wants to continue being a police officer.

On cross-examination, Respondent Diaz asserted that the anti-crime officers who had apprehended the suspects "were not willing to speak with us." Respondent Diaz acknowledged that she never told a supervisor that the anti-crime officers had refused to speak with her and Respondent Irizarry. Respondent Diaz agreed that she had told the AUSA that she and Respondent Irizarry had physically apprehended and arrested the defendants. Respondent Diaz confirmed that she believed that she had met with an AUSA more than once prior to testifying at the suppression hearing held on September 23, 2009.

The transcript of Respondent Diaz' testimony under oath at the suppression hearing held on September 23, 2009 was admitted into evidence [Department's Exhibit (DX) 1]. At the suppression hearing, Respondent Diaz was asked the following questions by the AUSA (Q.) and by Chief Judge Preska (THE COURT) and gave the following answers (A.):

Q. And you said you observed that individual throw a three-foot box?

A. Yes, he threw it to the ground.

Q. Could you see what the box was made of?

A. Cardboard.

Q. Did you ultimately learn who that individual was that threw the box?

A. Yes.

Q. What was his name?

A. Person A.

Q. What did you do next after you saw the individual throw the box?

A. He proceeded to walk away.

Q. Where was he walking? If you could just use the photograph as a description, in what direction was he walking?

A. He was walking opposite the end of the tractor-trailer, away from the tractor-trailer.

Q. Was he on the street, on the curb?

A. On the sidewalk, the curb.

THE COURT: Excuse me. Do you mean, officer, he was going in the direction from the cabin of the -- from the tractor back toward the trailer part, that direction.

THE WITNESS: No. Can I show you?

THE COURT: Yes, ma'am.

THE WITNESS: He was walking from here, along here.

THE COURT: I see, from the back of the trailer, away from it.

THE WITNESS: Yes.

THE COURT: Thank you.

Q. Officer Diaz, what did you do after you observed the individual walking in the opposite direction of the tractor-trailer?

A. I proceeded to stop him.

Q. How did you stop him?

A. I believe I told him to stop and put my hand on his shoulder.

Q. You put your hand on his shoulder, is that what you said?

A. Yes.

Q. Then what did you do?

A. I had him sit on the ground.

Respondent Irizarry

Respondent Irizarry testified, consistent with Respondent Diaz' testimony, that on July 16, 2008, he and Respondent Diaz received a radio transmission about a suspicious person in their assigned sector. When they arrived at the scene, they saw an 18-wheel tractor trailer truck parked on the street and they saw that anti-crime officers dressed in plainclothes, who they recognized as also being assigned to the 52 Precinct, were already at the scene. The anti-crime officers had one man in custody at the rear of the tractor trailer truck. Respondent Irizarry also saw "boxes of marijuana on the ground." Respondent Irizarry testified that he and Respondent Diaz then walked from the rear to the front of the tractor trailer truck, looked inside the cab and "saw somebody in there so we pulled him out." Respondent Irizarry recalled that one of the anti-crime officers removed the man who was inside the cab. The man was brought to the rear of the truck.

Respondent Irizarry testified that “right away” the anti-crime officers “were saying that they were taking the arrest.” However, after their supervisors arrived at the scene it was decided that Respondent Irizarry would “take” the arrests of both men. Respondent Irizarry recalled that the anti-crime officers were not happy about this decision and that they did not remain at the scene to assist Respondent Irizarry.

At the 52 Precinct, Respondent Irizarry processed the arrests of the two men. When the ATF agents arrived at the 52 Precinct, Respondent Irizarry “told them what we had and [that] we apprehended these two individuals.” Respondent Irizarry asserted that by “we” he was referring to himself, Respondent Diaz, and the anti-crime officers, who were not present at the 52 Precinct at that point.

Respondent Irizarry admitted that when he appeared at the office of the United States Attorney for the Southern District of New York to be prepped for his testimony at the suppression hearing, when he was asked about the arrests, he “told them pretty much that me and my partner, we apprehended the two,” even though he was aware that this statement was not totally accurate. When he testified at the suppression hearing on September 23, 2009, he repeated this claim.

Respondent Irizarry testified that he regretted his actions. When he was asked, “Why do you regret your actions?” he answered, “Because it was just a mistake.” Respondent Irizarry asserted that he is remorseful about his actions and that he wants to remain a police officer “because I just love the job.”

With regard to the misconduct he pleaded guilty to under Disciplinary Case No. 2011-6359, Respondent Irizarry testified that on June 11, 2010, he was off-duty driving his mother to a

hospital on Long Island. As he was driving in Nassau County, his car was "rear-ended" by the car behind him. He telephoned 911 to file a Police Accident Report. When the responding Nassau County Police Officer asked to see his auto insurance card, he realized that he did not have a copy of the insurance card inside his car. The officer issued him a summons for this violation. Later that same day, he telephoned a union delegate to see if he could assist him regarding this summons but the union delegate was not able to assist him. Respondent Irizarry testified that he pleaded not guilty to the summons; he obtained and provided to the court a letter from his insurance company which verified that his auto insurance was in effect on June 11, 2010, and he paid the court fee.

On cross-examination, Respondent Irizarry asserted that at the scene he had made an effort to learn which of the anti-crime officers had apprehended the suspect, whose name was Person A, who was already in custody when he and Respondent Diaz arrived at the scene, but he was unable to find out because the anti-crime officers "didn't want to be a part of it." When he was asked if during arrest processing at the 52 Precinct he had renewed his attempt to ascertain the name of the anti-crime officer who had apprehended Person A, he answered, "Well, they weren't there." When he was asked whether he had attempted to speak to the anti-crime supervisor who had come to the scene and had spoken to the patrol supervisor, in order to obtain the name of the officer who had apprehended Person A, he answered, "They weren't around. They didn't want anything to do with it." He acknowledged that he made no further attempt to contact any of the anti-crime officers who were present at the scene when he and Respondent Diaz arrived.

He testified that at the point in time when he was interviewed about the arrests at the office of the United States Attorney for the Southern District of New York, he did not view the arrests as being assigned arrests "because I felt that it was like a team effort. It was like a whole big confusion. It was a huge mistake." He agreed that when he and Respondent Diaz arrived at the scene, Person A was already in handcuffs and seated at the rear of the truck. He also agreed that he and Respondent Diaz had not assisted in any way in the apprehension of Person A. He further agreed that when he and Respondent Diaz arrived at the scene, they saw open boxes containing marijuana on the ground outside of the truck and that the anti-crime officers who were present at the scene were arresting Person A for possessing this marijuana. He recalled that he was interviewed about the arrests at the office of the United States Attorney for the Southern District of New York more than once prior to testifying at the suppression hearing. He admitted that he had indicated at these interviews that the two men who were apprehended were still at liberty at the point when he and Respondent Diaz arrived at the scene and that this claim was false.

The transcript of Respondent Irizarry's testimony under oath at the suppression hearing held on September 23, 2009 (DX 1) shows that at the suppression hearing he was asked the following questions by the AUSA (Q.) and gave the following answers (A.):

Q. Did you see anything when you made your way towards the end of the truck?

A. Yes. I saw a male walking away from the truck in the opposite direction in a pretty fast manner.

Q. Walking away the opposite direction from where the truck was facing?

A. Yeah, northbound.

Q. Did you see him by using your flashlight?

A. No.

Q. How were you able to see him?

A. There was enough light there that I was able to see him walk away.

Q. I think you had mentioned street lights. Were there any other lights?

- A. No, just the street lights.
- Q. What happened after you saw the male walking in the opposite direction?
- A. I started walking myself a little faster to try to get to the end of the truck. By that time my partner stopped the guy and brought him back towards the end of the truck.
- Q. And who is your partner?
- A. Officer Diaz.
- Q. Were you ever able to identify who that individual was?
- A. Eventually, yes.
- Q. Do you know that individual's name?
- A. Person A.
- Q. Is that a first name or a last name?
- A. Last name.
- Q. What happened after you saw your partner reach Person A?
- A. She secured him and she brought him back towards the end of the car, I mean the end of the tractor-trailer truck.
- Q. What did she do next?
- A. She placed him on the ground.

On cross-examination at the suppression hearing, Respondent Irizarry was asked the following questions by a defense attorney (Q.) and gave the following answers (A.):

- Q. You were on the scene initially, correct?
- A. Yes.
- Q. You go down the side – the back of the truck and you see a box on the ground, curb and on the street, right?
- A. Yes.
- Q. Officer Diaz around that time places Person A on the ground, right?
- A. Yes.
- Q. That was before, though, that you looked inside the box, correct?
- A. Yes.
- Q. Did she order him down on the ground?
- A. I couldn't hear her.
- Q. You said that she put him down on the ground. What does that mean? What do you mean by that?
- A. Put him down, sit him down on the ground.
- Q. Did she use her hands to physically put him down on the ground?
- A. Yeah, I would assume so.
- Q. Did she handcuff him?
- A. Yes.
- Q. And then after that happened, that was when you looked in the box with the flashlight, right?
- A. Yes.
- Q. So also after Officer Diaz put him in handcuffs on the ground, she then walked over to where you were and was in your vicinity while you were looking in the box with the flashlight, right?

A. Well, she was already at the end of the truck. I was just meeting her at the end of the truck.

Q. Let me back up. You saw Officer Diaz go up to Person A as he was walking away and put her hand on him, correct?

A. Yes.

Q. And then she put him on the ground, isn't that right?

A. Yes.

Q. And then she handcuffed him, isn't that correct?

A. I believe he was handcuffed before he was on the ground.

Q. You think she handcuffed him and then put him on the ground, right?

A. Yes.

Q. So she goes up to him, she grabs his shoulder, she handcuffs him, and puts him on the ground, right?

A. Yes.

The complaint that was prepared regarding the arrests charged the two arrestees with possessing "approximately 9 kilograms" of marijuana with intent to distribute this controlled substance (DX 2). The parties stipulated that the indictment that replaced this complaint contained this charge, and that the indictment was dismissed as a result of the perjury that Respondent Diaz and Respondent Irizarry committed at the suppression hearing.

PENALTY

In order to determine an appropriate penalty for Respondent Diaz, her service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent Diaz was appointed to the Department on July 11, 2005. Information from her personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

In order to determine an appropriate penalty for Respondent Irizarry, his service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent Irizarry was appointed to the Department on July 1, 2004. Information from his personnel file

that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent Diaz and Respondent Irizarry have each pleaded guilty to having made materially false, fictitious or fraudulent statements to a member of the United States Attorney's Office for the Southern District of New York concerning their participation in the arrests that were made on July 16, 2008 in Bronx County.

Respondent Diaz and Respondent Irizarry have each also pleaded guilty to having committed perjury at a suppression hearing held on September 23, 2009, in United States District Court for the Southern District of New York, in that they each intentionally made material false statements regarding their participation in the arrests that were made on July 16, 2008.

Respondent Irizarry has also pleaded guilty to having engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by, on one occasion, requesting assistance with the prevention of the processing and adjudication of a summons that had been issued to him.

The testimony offered by Respondents at this hearing does not serve to mitigate their extremely serious misconduct. Both Respondents asserted that because the anti-crime officers were miffed that the arrests had been taken away from them and assigned to Respondents, the anti-crime officers refused to tell them which officer had actually apprehended the two suspects. Although Respondents claimed that this lack of cooperation from the anti-crime officers was the cause of their subsequent false statements that they had personally apprehended the suspects, this claim is belied their admissions that after July 16, 2008, they never even tried to talk about the

arrests with any of the anti-crime officers or with the anti-crime supervisor who came to the scene, even though they all worked in the same stationhouse.

Respondents asserted at this hearing that they did not view their claims that they had apprehended Person A as knowing lies. Respondent Diaz asserted that "after being assigned the arrest, I equated that with me apprehending" Person A, and Respondent Irizarry asserted that he viewed the arrests as a "team effort" with the anti-crime officers which became "a whole big confusion" and "a huge mistake." This testimony ignores the fact that Respondents invented a highly detailed, completely fictitious story that Respondent Diaz had physically apprehended Person A without assistance from anyone other than Respondent Irizarry.

In their statements to members of the United States Attorney's Office and during their testimony at the suppression hearing, they knowingly lied rather than truthfully acknowledge that Person A had already been apprehended before they arrived at the scene of the arrest.

Respondent Diaz falsely claimed under oath at the suppression hearing that she observed Person A throw a box onto the ground; that after he threw the box, she saw him walk away; that she told him to stop; that she physically stopped him by putting her hand on his shoulder; and that she sat him down on the ground. Not only did Respondent Diaz provide false answers to questions posed to her by the AUSA, she also falsely answered questions that were posed to her by the judge who presided at the suppression hearing.

Respondent Irizarry falsely claimed under oath at the suppression hearing that he had observed Person A walking away from the truck in a fast manner in a northbound direction; that he started walking a little faster to try to get to the end of the truck; that he saw Respondent Diaz go up to Person A as he was walking away and stop him by putting her hand on him; that

she brought him back to the truck; that he saw Respondent Diaz place handcuffs on Person A; and that he saw Respondent Diaz put Person A on the ground.

The Assistant Department Advocate recommended that Respondents be dismissed from the Department.

With regard to Respondents' misconduct of making materially false statements to members of the United States Attorney's Office, the misconduct presented here is similar to that presented in a recent decision, *Case No. 2010-0298* (Feb. 4, 2013), where a six-year officer who had no prior disciplinary record was dismissed from the Department after she was found guilty of making knowingly false statements to federal agents when she was questioned regarding a narcotics investigation. In that case, as here, the lies the officer told the federal agents were not only comprehensive and detailed, the officer invented a completely fictitious scenario regarding her own actions. Also, in that case, as here, although the officer was interviewed on more than one occasion, and was thus presented with more than one opportunity to tell the truth, the officer persistently lied to the federal agents.

Respondents here compounded their misconduct of lying to members of the United States Attorney's Office by repeating these lies in their testimony at the suppression hearing when they were questioned under oath. The facts presented here are dissimilar to the facts presented in previous decisions where penalties short of immediate termination have been imposed on members who pleaded guilty to giving false testimony. For example, in *Case No. 2011-4811* (Sept. 18, 2012), a penalty short of immediate dismissal was imposed on an officer who admitted to falsely testifying before a Grand Jury that he had personally observed suspects committing a larceny inside a store when he had actually viewed a store surveillance videotape which recorded

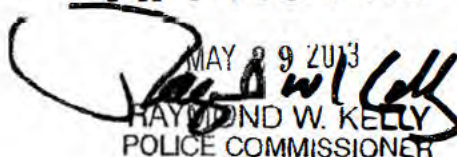
the suspects committing the larceny. However, in that case, unlike here, the officer, on his own volition, reported to the prosecutor that he had made inaccurate statements to the Grand Jury. The officer did not perpetuate his misstatements by repeating them at a pre-trial suppression hearing. Moreover, unlike here, his inaccurate testimony did not have had any adverse effect on the prosecution.

Here, Respondents' perjury at the suppression hearing had an extremely adverse effect on the prosecution in that it resulted in the dismissal of the felony indictment and the release of the two arrestees who were charged with possessing "approximately 9 kilograms" of marijuana with intent to distribute this controlled substance (DX 2).

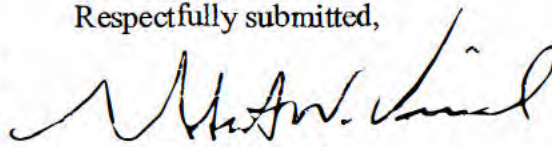
Respondent Irizarry has submitted numerous letters attesting to his good character (See RX A and five additional letters submitted on March 5, 2013). However, his previous good work does not serve to counter-balance the egregious misconduct that he and Respondent Diaz engaged in here, misconduct which brought disrepute not only to their own reputations but to the reputation of the Department itself.

It is recommended that Respondents be DISMISSED from the New York City Police Department.

APPROVED

MAY 29 2013

RAYMOND W. KELLY
POLICE COMMISSIONER

Respectfully submitted,


Robert W. Vinal
Assistant Deputy Commissioner Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MICHELLE DIAZ
TAX REGISTRY NO. 937816
DISCIPLINARY CASE NO. 2011-5427

Respondent received an overall rating of 4.5 on her 2012 annual performance evaluation, 4.5 on her 2011 evaluation, and 4.0 on her 2009 evaluation. She has no medals. [REDACTED] She has never been on monitoring. She has no prior formal disciplinary record.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner Trials

POLICE DEPARTMENT
CITY OF NEW YORK

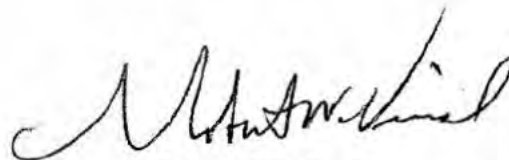
From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER STEVEN IRIZARRY
TAX REGISTRY NO. 935045
DISCIPLINARY CASE NOS. 2011-5426 & 2011-6359

Respondent received an overall rating of 4.0 on his 2011 annual performance evaluation, 4.0 on his 2010 evaluation, and 4.0 on his 2009 evaluation. He has no medals. [REDACTED]

He has a formal disciplinary record. In 2009, he forfeited five vacation days after he pleaded guilty to having wrongfully struck an individual in the face without proper police necessity while on-duty.

On April 29, 2008, he was placed in Level-II Force Monitoring which ended on February 24, 2010.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner - Trials